

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BRIAN L. ANDERSON,	)	
	)	
Plaintiff,	)	Civil Action No. 21-1294
	)	
v.	)	District Judge David S. Cercone
	)	Magistrate Judge Maureen P. Kelly
GUARD COVINE, <i>CORRECTIONS-DHU</i> ;	)	
GUARD CAMPBELL, <i>CORRECTIONS-</i>	)	Re. ECF No. 12
<i>DHU</i> ;	)	
SERGEANT COULTER;	)	
SERGEANT GANDZARSKI;	)	
CAPT. EDWARDS; CAPT. PIENDEL;	)	
MR. ORLANDO HARPER, <i>WARDEN</i> ; and	)	
ALLEGHENY COUNTY POLICE	)	
DEPARTMENT <i>JAIL INVESTIGATIONS</i>	)	
<i>SECTION</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

Brian L. Anderson (“Plaintiff”) is a former pretrial detainee who was, at the time of filing of this civil action, confined at the Allegheny County Jail in Pittsburgh, Pennsylvania (“ACJ”). September 28, 2021, this Court received Plaintiff’s Complaint, as well as a Motion and Declaration in Support of Motion to Proceed *in Forma Pauperis* (“IFP Motion”). ECF No. 1. Plaintiff was granted leave to proceed IFP on October 29, 2021. ECF No. 8.

Plaintiff brings this lawsuit pursuant to the Civil Rights Act of 1871. 42 U.S.C. § 1983 et seq. In his Complaint, Plaintiff alleges that various defendants violated his rights under the United States Constitution in a variety of ways. ECF No. 9.

On November 10, 2021, United States Magistrate Judge Maureen Kelly issued a Report and Recommendation in which she recommended that:

- Plaintiff’s federal lost property claim should be dismissed without leave to amend in this Court, but without prejudice to filing a state law claim in state court, if

appropriate;

- To the extent that he attempts to raise one, Plaintiff's claim of denial of access to the courts should be dismissed with leave to file an amended complaint with respect to that claim only;
- Plaintiff's claims regarding his jail grievances and attempts to initiate a criminal investigation regarding his lost property should be dismissed with prejudice; and
- Plaintiff's claims against Defendants Harper and Fitzgerald should be dismissed with prejudice.

ECF No. 12 at 1. Plaintiff was advised of his right to file objections. Id. at 9-10. The deadline for objections has passed and, as of this date, Plaintiff has not filed objections to the Report and Recommendation.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, ECF No. 12, the following order is entered:

AND NOW, this 30<sup>th</sup> day of March, 2022,

IT IS HEREBY ORDERED that the Complaint, ECF No. 9, is DISMISSED, and the claims therein are disposed as follows:

- Plaintiff's federal lost property claim is dismissed without leave to amend in this Court, but without prejudice to filing a state law claim in state court, if appropriate;
- Plaintiff's claim of denial of access to the courts is dismissed with leave to file an amended complaint with respect to that claim only;
- Plaintiff's claims regarding his jail grievances and attempts to initiate a criminal investigation regarding his lost property are dismissed with prejudice; and
- Plaintiff's claims against Defendants Harper and Fitzgerald are dismissed with prejudice.

Plaintiff shall submit an amended complaint with respect to the claim for which he has been given leave to amend in this Court on or before April 29, 2022. Failure to submit an amended complaint by that date may result in this case being dismissed for failure to prosecute.

IT IS FURTHER ORDERED the Magistrate Judge's Report and Recommendation, ECF No. 12, as it is supplemented by this order, is adopted as the opinion of this Court.

s/David Stewart Cercone  
David Stewart Cercone  
Senior United States District Judge

cc: The Honorable Maureen P. Kelly  
United States Magistrate Judge

Brian L. Anderson  
P.O. Box 86036  
Wilkinsburg, PA 15221